

September 18, 2024

VIA ECF

Honorable Orelia E. Merchant
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Manhattan Realty Company 1, LP v. 155 Chambersfood, Inc.
Civil Dkt. No.: 1:24-cv-00085-OEM

Dear Judge Merchant:

I write on behalf of Manhattan Realty Company 1, LP (“Appellant-Creditor”) in the above-referenced matter, to ask when this Court will determine our appeal. Our brief was submitted on March 7, 2024. 155 Chambersfood, Inc.’s (“Appellee-Debtor”) deadline to file its brief was April 8, 2024. Following Appellee-Debtor’s default, Your Honor entered an order on April 10, 2024, requiring Appellee-Debtor to either submit its brief or show cause by April 15, 2024 why the appeal should not be deemed unopposed. Appellee-Debtor again ignored that deadline and failed to file any opposition to the appeal. Consequently, the appeal is unopposed.

Approximately four months after Appellee-Debtor defaulted twice in opposing the appeal, Appellee-Debtor filed a motion to dismiss the underlying bankruptcy petition which is returnable on September 24, 2024. *See* ECF Doc. Nos. 111-113, Case No. 23-42937-nhl. The absence of a decision on Appellant-Creditor’s unopposed appeal encouraged and rewarded Appellee-Debtor’s litigation games and the Bankruptcy Court’s indulgence of same. Without a decision on the unopposed appeal prior to the Bankruptcy Court’s expected dismissal of the petition, there will be no consequence for the Bankruptcy Court’s refusal to issue an order granting, denying, or continuing the automatic stay under the Bankruptcy Code within the requisite time period specified in 11 U.S.C. § 362(e)(1), which for the reasons cited in the appeal, constitutes reversible error.

Respectfully submitted,

/s/ Robert Moore

cc: **VIA ECF**

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